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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/717,308	11/19/2003	Stephen D. Wehmeyer	100041-41186	6486
27805	7590	06/16/2004		EXAMINER
THOMPSON HINE L.L.P. 2000 COURTHOUSE PLAZA , N.E. 10 WEST SECOND STREET DAYTON, OH 45402			CARTER, MONICA SMITH	
			ART UNIT	PAPER NUMBER
			3722	

DATE MAILED: 06/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/717,308	WEHMEYER, STEPHEN D.
Examiner	Art Unit	
Monica S. Carter	3722	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 19 November 2003.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-23 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-23 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
     1. Certified copies of the priority documents have been received.  
     2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
     3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____ .

## DETAILED ACTION

### ***Specification***

1. The disclosure is objected to because of the following informalities: On page 2, "storage compartment 30" should be replaced with "storage compartment 42".

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-8 and 10-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Lu (5,909,897).

Lu discloses a photo album comprising a spine (the examiner considers the spine to be the longitudinal edge of 21 adjacent the covers – see diagram below); a pair of covers (22, 23) pivotally coupled to the opposite edges of the spine (see figure 2 and col. 2, lines 11-13); and a storage component (21) located on an outer surface of the spine defining a storage cavity (214) for receiving loose articles (25) and including an access door (26) that is pivotable about an axis (as seen in an alternate embodiment in figure 4, the access door 36 has one side pivoted to one of the edges which confine an opening 35 – see col. 2, lines 45-54) that extends generally parallel to the spine to provide access to the storage cavity (as seen in figure 2).

Regarding claim 2, the pivoting axis is spaced away from the spine (see diagram below).

Regarding claim 3, the storage component includes a pair of side walls oriented generally perpendicular to the spine and generally parallel to each other, the side walls being generally fixed and nonremovably coupled to the spine (see diagram below).

Regarding claim 4, the storage component further includes a pair of end walls oriented generally perpendicular to the spine and to the side walls (see diagram below).

Regarding claim 5, the storage component further includes a backing wall oriented generally perpendicular to the side walls and to the end wall and generally parallel to the spine (see col. 2, lines 21-25), wherein the storage component includes an access opening (214 – same as storage cavity) which is located in the backing wall.

Regarding claim 6, the door is movable between a closed position to an open position (see figures 4 and 5).

Regarding claim 7, the storage component extends generally the entire length of the spine (see figure 2).

Regarding claim 8, the storage component includes internal dividers (211) dividing the storage component into a series of sub-compartments (212).

Regarding claim 10, the binder includes a binding mechanism located on an inner surface of the binder (see figure 3).

Regarding claim 11, the storage component is at least partially defined by the outer surface of the spine (see figure 2).

Regarding claim 12, the spine and covers are generally flat, planar components and are generally rectangular in front view (see figure 2).

Regarding claim 13, the storage component includes a backing wall extending generally parallel to and spaced apart from the spine and wherein the pivot axis is located closer to the backing wall than to the spine (see diagram below).

Regarding claim 14, the storage component is fixedly and non-removably coupled to the spine (see col. 2, lines 45-50).

Regarding claim 15, the axis is spaced away from the spine in a direction perpendicular to the spine (see diagram below).

Regarding claim 16, the spine has a length and the access door has a length less than the length of the spine (a side recess 215 facilitates passage of the access door, since the door fits inside of recess, it has a length that is less than the length of the spine).

Regarding claim 17, see the above rejections to claims 3-6.

Regarding claim 18, see the above rejections to claims 5 and 6.

Regarding claim 19, see the above rejections to claims 1 and 10.

Regarding claims 20-22, see the above rejections.

Regarding claim 23, see the above rejections to claims 1 and 16.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lu in view of Wien et al. (6,367,842).

Lu discloses the claimed invention except for the storage component being generally made of transparent material. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide any required material for the storage component, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of design choice. *In re Leshin*, 125 USPQ 416.

Furthermore, Wien et al. disclose a binder being made of transparent material (as seen in figure 1). Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to modify the storage component of Lu to be made of transparent material, as taught by Wien et al., to enable the user to view the loose articles being retained in the storage component.

***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited references disclose notebook binders.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Monica S. Carter whose telephone number is (703) 305-0305. The examiner can normally be reached on Monday-Thursday (7:00 AM - 4:30 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrea L. Wellington can be reached on (703) 308-2159. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

June 10, 2004

*Monica S. Carter*  
**MONICA S. CARTER**  
**PRIMARY EXAMINER**

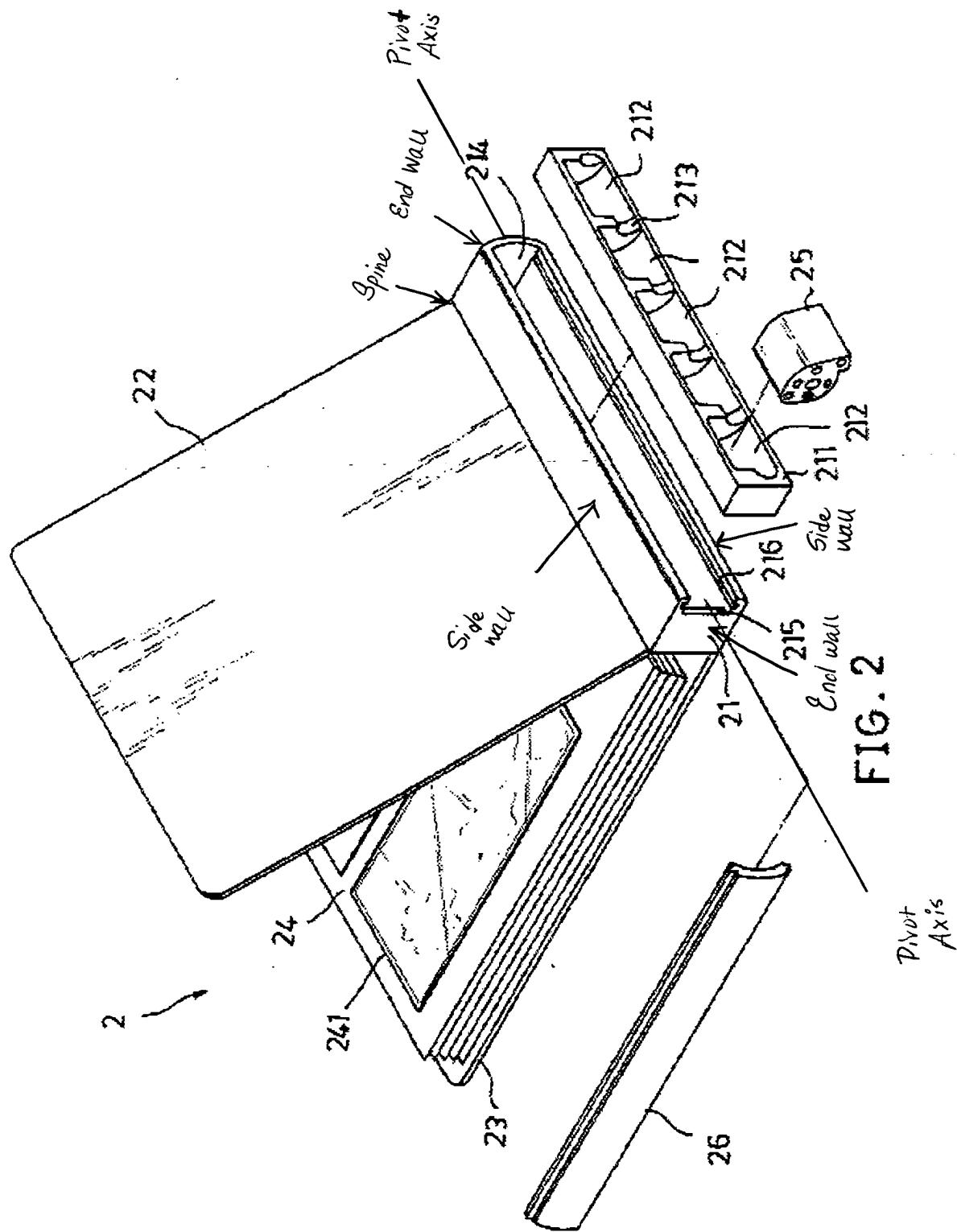


FIG. 2

Pivot  
Axis